

1 Mara E. Rosales (SBN: 104844)  
mrosales@meyersnave.com  
2 Joseph M. Quinn (SBN: 171898)  
jquinn@meyersnave.com  
3 MEYERS, NAVF, RIBACK, SILVER & WILSON  
575 Market Street, Suite 2600  
4 San Francisco, CA 94105  
Telephone: (415) 421-3711  
5 Facsimile: (415) 421-3767

6 Attorneys for Defendants  
CITY OF OAKLAND and  
7 PORT OF OAKLAND

8 David L. Alexander, Port Attorney (SBN: 59069)  
dalexand@portoakland.com  
9 Danny Wei Wan, Deputy Port Attorney (SBN: 168323)  
dwan@portoakland.com  
10 PORT OF OAKLAND  
530 Water Street  
11 Oakland, CA 94607  
Telephone: (510) 627-1136  
12 Facsimile: (510) 444-2096

13 Attorneys for Defendant  
PORT OF OAKLAND  
14

15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 AMERICAN CIVIL RIGHTS FOUNDATION,  
18 a non-profit, public benefit corporation,

19 Plaintiff,

20 v.

21 CITY OF OAKLAND, CALIFORNIA, a  
political subdivision of the State of California,  
22 and the PORT OF OAKLAND, a public entity,

23 Defendants.

24 CASE NO. CV 07-6058 (JCS)

25 **DEFENDANTS' REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF DEFENDANTS'  
MOTION TO DISMISS (FRCP 12(b)(6))**

26 Date: January 18, 2008  
Time: 9:30 A.M.  
Courtroom: A  
Judge: Hon. Joseph C. Spero

27  
28

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Defendants respectfully requests the Court, pursuant to Federal Rules of Evidence Rule 201,  
3 take judicial notice of the following documents attached hereto:

4 Exhibit 1: Ordaining Clause of the Charter of the City of Oakland

5 Exhibit 2: Articles VI and VII of the Charter of the City of Oakland

6 Exhibit 3: Port of Oakland, Budget Summary FY 2005-2006

7 Exhibit 4: Port of Oakland, Budget Summary FY 2006-2007

8 Exhibit 5: Port of Oakland, Budget Summary FY 2007-2008

9 Exhibit 6: City of Oakland, Budget-in-Brief FY 2005-2007

10 Exhibit 7: City of Oakland, Adopted Policy Budget, 2007-2009

11 Exhibit 8: Airport Compliance Requirements, USDOT/FAA Order 5190.6A

12 Exhibit 9: Department of Transportation, Sample Airport Concession DBE  
13 Program

14 Exhibit 10: Participation by Disadvantaged Business Enterprises in Airport  
15 Concessions, 49 C.F.R. Part 23.

16 Exhibit 11: Participation by Disadvantaged Business Enterprises in Department of  
17 Transportation Financial Assistance Programs, C.F.R. Part 26 (relevant  
18 portions)

19 Exhibit 12: Grant Agreement, Date of Offer July 21, 2005; Project No. 03-06-  
20 0170-37, including Grant Assurances

21 Exhibit 13: Grant Agreement, Date of Offer September 6, 2005; Project No. 03-  
22 06-0170-39, including Grant Assurances

23 Exhibit 14: Grant Agreement, Date of Offer August 1, 2006; Project No. 03-06-  
24 0170-40, including Grant Assurances

25 Exhibit 15: Board of Port Commissioners, City of Oakland; Resolution No. 05253  
26 Resolution Approving and Adopting the Port's New Airport  
27 Concession Disadvantaged Business Enterprise (ACDBE) Program and  
28 ACDBE Goal and Methodology Report

1                   Exhibit 16: Letter from the FAA dated March 24, 2006

2                   Judicial notice may be taken of "adjudicated facts" and other facts not subject to reasonable  
3 dispute and either "generally known" in the community or "capable of accurate and ready  
4 determination by reference to sources whose accuracy cannot reasonably be questioned" (FRE Rule  
5 201(b).) The above-referenced items are public records of public governmental bodies and thus are  
6 proper subjects for judicial notice.

7

8 Dated: December 7, 2007

Respectfully submitted,

9                   MEYERS, NAVÉ, RIBACK, SILVER & WILSON

10

11 By: /S/

12                   Mara E. Rosales  
13                   Attorneys for Defendants  
14                   CITY OF OAKLAND and  
15                   PORT OF OAKLAND

16 1035974\_1